EXHIBIT A

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

KIMBRA CRISWELL,

Plaintiff,

vs.

LYDIA ADAIR McFADDEN and CHRISTIANA CARE HEALTH SERVICES, INC.,

Defendants.

CA NO. 05-CV-00321 GMS

DEPOSITION OF SUMIT DEWANJEE, M.D.

Taken on Thursday, March 29, 2007

At 1:10 p.m.

At 2929 North Central Avenue, Suite 1680

Phoenix, Arizona

REPORTED BY: MICHAEL H. DIPPEL, RPR
Arizona CR No. 50716
Nevada CCR No. 701
California CSR No. 9409

APPEARANCES:

For Plaintiff:

WHITE AND WILLIAMS, LLP
BY: DEBORAH J. MASSARO, ESQ.

Dewanjee

824 Market Street
Suite 902
Wilmington, Delaware 19801
302-654-0424
(Appearing via video teleconference.)

For Defendants:

KATS, JAMISON, Van der VEEN & ASSOCIATES
BY: NELSON LEVIN, ESQ.
25 Bustleton Pike
Feasterville, Pennsylvania 19053
215-396-8388
(Appearing via video teleconference.)

DEPOSITION OF SUMIT DEWANJEE, M.D., taken at 2929 North Central Avenue, Suite 1680, Phoenix, Arizona, on Thursday, March 29, 2007, at 1:10 p.m., before Michael H. Dippel, Registered Professional Reporter and Certified Reporter No. 50716 in and for the State of Arizona.

I N D E X

WITNESS:
SUMIT DEWANJEE, M.D.

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SUMIT DEWANJEE, M.D.,

was called as a witness and, having been first duly sworn, testified as follows:

EXAMINATION

BY MS. MASSARO:

Q. Good afternoon, again, Dr. Dewanjee. My name is Debbie Massaro for the record. I represent Christiana Care and Lydia Adair McFadden. Again, that's the hospital and the X-ray technician who Ms. Criswell has sued in this case. And I have a few questions for you today regarding Ms. Criswell's medical care and your opinions.

Before I start the deposition, I want to

reserve on the record Defendants' right to oppose any deposition testimony today that is based upon a late submission or a supplemental report and/or that the subject matter was not raised in Plaintiff's initial Rule 26 disclosure, which was submitted in the form of Dr. Dewanjee's written report dated January 19th, 2007.

Okay. Dr. Dewanjee, now that we've gotten that on the record --

MR. LEVIN: May I respond briefly?

MS. MASSARO: Sure.

MR. LEVIN: To respond, Dr. Dewanjee's supplemental report contained opinions that were

contained in his records, his office notes. His supplemental report does not put forth any new theories of injury that have not been contained in his office notes and his initial report. Accordingly, there is no prejudice to the defense in this case.

All the medical conditions caused by the incident of May 23rd, 2002, have been well-documented by Dr. Dewanjee's notes as well as the notes of other medical providers. There is no new medical condition contained in Dr. Dewanjee's supplemental -- no new medical condition contained in Dr. Dewanjee's supplemental report. Accordingly, there's no prejudice to the defense.

And, additionally, the defense will be offering a report of an expert neurologist, which has not been received as per this date, which we anticipate will rebut any opinions that Dr. Dewanjee may have today.

Q. (By Ms. Massaro) Okay. And now that we're both on the record -- that's for the judge to decide, not for you to worry about -- we'll begin the deposition.

First, Dr. Dewanjee, have you given a deposition before?

A. No. Well, what do you mean by deposition?

Q. Have you been in a situation where a court reporter was taking your testimony where you were sworn in --

A. Yes.

Q. -- and you were answering -- okay.

And what situation was that in?

A. I think three of them -- I did two or three in the last three years, and they were patients of mine, and, I think, state compensation of Arizona wanted some information about the patient and their future prognosis and their injuries sustained at work.

Q. Okay. So were you a defendant in any of those cases?

A. No.

Q. So you were, more or less, a fact witness in those cases?

A. Treating physician and fact witness, yes.

Q. How long ago was that?

A. One may have been approximately six months to a year ago.

Q. Okay. Well, just as a reminder, I'm going to go over just a couple of quick things. I'm sure you'll remember them, but just to save the court reporter.

First, it's not a natural way to talk, so please let me finish my question before you answer the

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question, and I, in turn, will do my best to then let you answer before I start my next question.

Also, be careful. We tend to nod when we're saying "yes" or "no," so please make sure to say "yes" or "no" so that the court reporter can get that down.

Also, I'm going to -- as I ask you questions, I will assume that you understood my question unless you tell me otherwise. Okay?

A. Okay.

Q. First, could you state and spell your name for the record.

A. My name is Sumit, S-u-m-i-t; last name Dewanjee, D-e-w-a-n-j-e-e.

Q. Okay. And what is your business address?

A. The business address of my company is 7301 East 3rd Avenue, No. 413, Scottsdale, Arizona 85251.

Q. Okay. And what company is that?

A. FX RX, Incorporated.

Q. And how do you spell that?

A. Capital F, capital X, space, capital R, capital X, space, Incorporated.

Q. Okay. What type of company is that?

A. Arizona C corporation.

Q. And what does that corporation as an

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entity -- what does it do?

A. Medical consulting for orthopedics.
Q. Would that be in Arizona or all over the country?
A. Arizona.
Q. And is that something different than -- on your curriculum vitae, Maricopa Health System is listed as your employer. Is that something different?
A. I'm not -- they are not my employer because it's an independent contractor that I serve as for that hospital system.
Q. Okay.
A. I'm actually employed by the company FX RX, Incorporated.
Q. And is that a group of --
A. No. It's owned by myself.
Q. Okay. You own it, but is it -- does it encompass a group of physicians?
A. No. Just me.
Q. And you serve as an independent contractor to the hospital; is that correct?
A. Yes.
Q. Okay. Are you an attending at that hospital?
A. Yes.
Q. All right. I'll ask you a little bit more

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about that later.
How long have you been doing legal work?
A. The first deposition I was asked to do was approximately two years ago.
Q. And that was when you were the treating physician?

A. Correct.
Q. And that was for the state compensation?
A. Yes.
Q. Have you ever done legal work where you were with -- as in this case, where you were testifying on behalf of the plaintiff?
A. No.
Q. Okay. How did you come to know of this case?
A. My patient told me about the extent of her injuries and how she was injured, and, later, I received information from the attorneys at Kats, Jamison, Van der Veen & Associates that they needed information regarding her injuries, her diagnosis, prognosis, and expected outcomes, and that's when I found out that she was most likely proceeding with a suit. I really, still, to this day, don't really know the exact details of the suit but just was providing background information about the items I just discussed.

Q. Okay. Now, when you were reading that, you were looking at a piece of paper in front of you. Is that a letter from the law firm that you just named?
A. No. That was just a supplemental report that I sent out later that had their firm's name on it. Because I'm not familiar with their firm.
Q. Okay. Have you received any correspondence from the law firm?
A. I received telephone correspondence from Mr. Nelson Levin just asking me to provide the information that I discussed in this report and a

previous report.

Q. Has he sent you anything in writing?

A. He did send me something in writing, which I don't have with me, just outlining, I think, the court case and what -- what they needed regarding information about her healthcare that I treated her for as well as any opinions I might have had about her previous care.

Q. All right. That letter -- first of all, did you get the -- I know, earlier in the week, we faxed to you a copy of the subpoena duces tecum, which is a list of things that I wanted you to bring to this deposition today. Did you get that list?

A. Yes, I did.

Q. Okay. Did you not think that this letter

came under that category or . . .

A. Yeah, I wasn't sure that it came under that category since I've never done one of these before, so . . .

Q. Okay. It does. So what I'd ask is that you send it to Mr. Levin so that he can forward it on to me.

A. Sure.

Q. Thank you.

Anything else from him? Anything else in writing from --

A. Most of that's handled by one of the administrative secretaries at Med Pro, which is a -- it's a hospitalist group associated with the Maricopa Health System, and our secretary handles most of that, and when she needs something directly from me, then she

asks me for it. So I don't actually see a lot of the paperwork from the attorney's office.

Q. So would she have that file with all of the correspondence from the attorneys?

A. She may, yes.

Q. Okay. If I could have a copy of that, I would appreciate that.

Also, you said you had telephone correspondence with Mr. Levin. When did he first

contact you?

A. I would say within the last two months.

Q. And what did he ask you?

A. He asked me what my capacity was in terms -- in Ms. Criswell's treatment, what purpose I was serving, if I was her treating physician or there for a second opinion, and I think he asked me what injuries she sustained and then what her prognosis was for these injuries and how long these might last.

Q. So when he first talked with you, these are the questions that he asked you?

A. Yes.

Q. Okay. And that's your first contact with Mr. Levin?

A. Yes. I can't remember the exact details of what we talked about because I didn't write them down.

Q. Is that what you -- are those the questions that you used to produce your first report dated January 19th?

A. Yes.

Q. Okay. How many conversations did you have

with Mr. Levin?

A. Approximately two. And, today, I called him about the address of this location to do the video conference at.

Q. Okay. So the second time that he called you, what was that conversation about?

A. He wanted additional information, more specific, regarding the chronicity of her injury and previous work restrictions that I had talked about that I didn't put into the first report.

Q. Okay. And is that what prompted your second report?

A. Yes.

Q. How did you prepare for today's deposition?

A. Just looking at her previous care, reading the medical summary with Exhibit A through M, and then looking at my previous notes.

Q. Okay. Do you have your notes there?

A. Yes.

Q. Could you set those aside in a pile for me?

A. Sure.

Q. Oh. You're talking about your medical record? Or are you talking about notes that you made?

A. No. I didn't make any -- the only separate notes I made was on the sheet, which is just a temporal summary of the care that she received.

Q. Okay. You can set that aside. I'll go over your medical record in just a moment.

Am I correct -- is that your medical record

that's right in front of you, the folder?

A. The chart, yes.

Q. Okay. Does that include your notes?

A. Which notes?

Q. Your notes regarding Ms. Criswell.

A. Yes.

Q. And the notes that you made in preparation for this deposition?

A. No. Those notes are just on this piece of paper.

Q. Okay. Okay. With regard to the chart -- what was that that you just removed out of the chart?

A. These are just the notes -- this chart is from the office at 4524 North Maryvale Parkway. That office is closed. Now, I work for FX RX. So this chart only includes the material from there.

And these are, I think, later notes dated September 28th, October 19th, and then the two supplementary reports, and a progress note from January 29th.

Q. Okay. Super. Let's go ahead and do the documentation first, before we move on.

Let's take a look at your chart, then, for the patient. And I just want to make sure -- first, how many actual papers are in that chart? Is it enough

to where you could just count very quickly and tell me how many papers you have in that chart?

A. No. There's quite a few papers. I would say about 40, 50 pages.

Q. Okay. Because I only have --

A. But these are not progress notes. There's a couple of fax transmissions of physical-therapy requests, that sort of thing.

Q. Okay. Yeah, we want everything when we request the chart. So if you could set that aside, I'm going to ask that that be faxed to me in a minute.

Am I correct in saying that Ms. Criswell has seen you eight times?

A. I would have to count the exact -- I don't know the exact number of times. That's approximately accurate.

Q. Okay. Has anything been removed from that file?

A. No.

Q. In forming your opinion, what records did you review?

A. I reviewed, first of all, her medical summary, the Exhibits A through M, sent to me by my secretary -- or our secretary at the hospital, and I reviewed my chart and my progress notes later on at --

from Maricopa.

Q. Okay. Do you have that list, A through M, in front of you?

A. Yes.

Q. Could you read that to me? I want to make sure that I have the same thing.

A. You mean go through the exhibits?

Q. Yes. You can just list them.

A. Exhibit A, Advanced Foot and Ankle Center, Pro Physical Therapy, Vascular Consultants, Christiana

Care, Lawall Prosthetics and Orthotics, Johns Hopkins Medicine, Orthopedic Specialists of Southwest Florida, Foot and Ankle Center, LMR Imaging, Valley Radiologists, my name, Endurance Rehab, and prescriptions under Exhibit M.

Q. Okay. Good. So let the record reflect these are the records that Plaintiff has produced in discovery.

Have you sent a bill to Mr. Levin for your work so far in this case?

A. I think my secretary did send a bill.

Q. Okay. Do you have a copy of that with you, as well, that was on the list that I sent to you?

A. I don't think so.

Q. Okay. Could you look and see if you have

that?

A. I'm a hundred-percent sure I do not.

Q. Okay. Are you? Okay. All right.

Again, with regard to that, could you send a copy of that to Mr. Levin --

A. Sure.

Q. -- for forwarding to me?

With relationship to that -- let me ask you to take a look at Exhibit No. 2 -- what has been marked as Exhibit No. 2.

A. 2 or B?

Q. That would be the fee schedule.

And, actually, the court reporter will give you that.

A. Okay.

Q. Is that the most up-to-date fee schedule?
A. I'm not sure. These are set arbitrarily by what the other physicians in the office who do more of these frequently charge.
Q. And what office is that?
A. The Med Pro Orthopedic office at Maricopa Medical Center.
Q. Okay. Now, did I understand you to say earlier that you're no longer with them?
A. No. I am with them, but I'm an independent

contractor. They let me use their administrative office.
Q. Okay. Then I wasn't really clear. You said that you had two charts for the patient, and you said that you had one chart with a group that you were no longer with, and I guess I'm not --
A. That's the blue chart.
Q. Can you explain that to me a little bit?
A. That's the blue chart. And now I'm with Maricopa Medical Center. They have e-files, so everything is on the computer there.
Q. Okay. And the blue chart is from where?
A. That's from the West Valley Orthopedics when I was initially seeing Ms. Criswell.
Q. Got it. Okay. And is that in Phoenix?
A. Both of those are in Phoenix, yes.
Q. And what hospital is West Valley Orthopedics associated with?
A. It's not associated with any particular hospital. The hospital across the street is Maryvale

Hospital, but it's not -- it's associated with the Abrazo Healthcare System, which includes about five or six hospitals in greater Phoenix.

Q. And when did you leave West Valley?

A. 2006, August. I had a two-year contract. I

completed that and then started my own practice, which is what I wanted to do.

Q. So the reason that you left them was to start your own practice?

A. Yes.

Q. Okay. And I didn't catch the year. We've got a little static. I don't know if you can hear the static, but we've got a little static here. I didn't catch it. What year was it that you left there?

A. August 2006.

MR. LEVIN: Doctor, maybe if you -- where is your mike?

THE REPORTER: The mike is pretty close to him. It's about as close as I can get it.

MR. LEVIN: Okay. Are there papers that are obscuring the mike?

THE REPORTER: No.

MS. MASSARO: Something's really giving us static from that mike. I don't know -- do you have any static with us.

THE REPORTER: No. We can hear you clearly.

MS. MASSARO: Okay. So it is your mike, then. Maybe take it a little further away from him and let's see if that helps.

THE WITNESS: Is that better?

MS. MASSARO: No. You might as well move it closer to him. I don't know what the static is. Nelson's right. It's usually papers.

THE REPORTER: Do you have your cell phone on? Sometimes that will cause interference.

Is that any better? We thought maybe it was the cell phone.

MS. MASSARO: I think maybe it was the cell phone.

Q. (By Ms. Massaro) The last question before we take a break to fax things: Did you prepare any drawings or charts?

A. No.

Q. Did you prepare a time line?

A. Time line, yes. That's the handwritten note that I brought with me today for the deposition.

Q. Okay. Super. And is that the only handwritten note, then?

A. Yes.

Q. Okay. We'll take a five-minute break. If we could have the 40-page chart in the blue folder and then that handwritten note faxed to (302)467-4546. It should take five minutes, and then we'll come back on the record.

(Pause in proceedings.

Q. (By Ms. Massaro) Dr. Dewanjee, did you read any medical literature in forming your opinion?

A. Yes.

Q. What did you read?

A. I just read a quick -- we call it the Orthopedic Knowledge Update 7. It's just a brief synopsis on RSD with a little flow chart.

Q. Do you have a copy of that in your file?

A. Not in the file, but I have it with me if you want it faxed.

Q. Yes. If you could give that to them -- we may as well save some time, and you can give that to Kris while we're continuing on with the deposition.

Do you need that for the rest of the deposition?

A. It depends what you ask me.

Q. Okay. Then why don't you hold on to it. I do want a copy of that, though.

Why don't you go ahead and tell me what injuries you allege are related to the incident that occurred at Christiana Hospital on May 23rd, 2002.

A. No. 1 is Achilles tendon partial tear; No. 2, Achilles tenosynovitis; No. 3, RSD, reflex sympathetic dystrophy, or causalgia in this case; and No. 4 is proximal tibiofibular instability of the left knee.

Q. So am I safe to say, then, there are four areas: Achilles tendon partial tear --

A. Correct.

Q. Then what was the second word you said?

A. Teno -- t-e-n-o -- synovitis.

Q. Okay. RSD, and then proximal tibiofibular instability?

A. Correct.

Q. Anything else?
A. No.
Q. When did you first see Ms. Criswell?
A. I would have to refer to my chart. May 2nd, 2005.
Q. Okay. And at that time, what did she present with?
A. I'm trying to find my note. I think it's in the exhibits; correct?
Q. Yes, it is. It's Exhibit No. 5, I believe.
A. At that time, I found that she did have the RSD. I didn't find anything that was contrary to the diagnosis of RSD. She also appeared to continue to have Achilles tendinitis. And I noted that I thought she may have torn her meniscus in her knee, and she did demonstrate the finding of the instability of the proximal tibiofibular joint.

Q. Okay. First you said nothing contrary to RSD. Did you find any of the RSD symptoms? For example, was her left foot swollen?
A. She had a stiffness of her ankle and a tenderness over her Achilles tendon.
When she saw me, she was mainly complaining of her knee, so I focused on that rather than her ankle where most of the RSD findings were previously.
Q. Okay. But you said you saw nothing contrary to RSD. Did you find anything -- again, did you notice if there was any swelling?
A. I did not note any swelling.
Q. Did you notice that there was any

discoloration of the left foot as compared to the right?

A. No.

Q. Did you observe any temperature change of the left foot as opposed to the right?

A. I did not check for a temperature change.

Q. So when you say there was nothing contrary to RSD, what made you say that?

A. She had stiffness of the ankle without any --

Q. Okay. But that's something --

A. -- without any recent injury. And, mainly, I was going by her history.

Q. Okay. And what did she tell you?

A. She told me, basically, the whole history of her injury starting out on May 23rd, 2002, when she was struck by the X-ray machine at work, followed by a short history of her care. She didn't go into detail regarding her care, but she did mention that she had an MRI, the treatment with the serial casting.

But then she -- at that time, the knee was bothering her more, and nobody had apparently addressed that before because I think her initial physicians were podiatrists, and they typically do not do any treatment above the ankle.

Q. Okay. So you first saw her, then, am I correct, three years after the incident? Is that correct?

A. Correct.

Q. Okay. And this is the first time that the knee was addressed, three years after the incident?

A. Yes.
Q. Is that correct?
A. Correct.
Q. Okay. Back to the RSD. I just want to ask you a few more symptoms to find out if you noted them on this first visit when you saw her.
Was the left foot warmer than the right?

A. I did not check for any difference in temperature.
Q. Did you notice any limited range of motion of the left --
A. She did have limited range of motion.
Q. And how was that limited?
A. She could only dorsiflex to about 10 degrees. And that is abnormal.
Q. Okay. Did you notice any changes in the toenails in the comparison of the left to the right?
A. No. I did not check her toenails.
Q. Did you examine her foot at all? Did you see her foot without socks on?
A. Yes, I did.
Q. Okay. Would you have noticed if there was a difference in her toenails from the left to the right?
A. Not if I was focusing on her knee mostly, and her Achilles tendon.
Q. You said that you noted that she had limited range of motion. Did you look at her foot when you did that?
A. Yeah, I did have to look at it, and I had to watch her move it up maximally and down maximally to

see what her range of motion was, and I also had to palpate her ankle to check what was tender, and, at

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that time, the area that what was tender in her foot was her Achilles insertion.

Q. Would you have noted if you had noticed any difference in the right to the left foot?

A. I would have if I had checked the right foot, but I only checked her left ankle.

Q. Okay. Did you notice any moisture of the left foot?

A. I did not check her skin moisture on that visit. These are things I'd most likely check if I was trying to determine whether someone had a new onset of RSD, but she had a previously established diagnosis, and that was not her -- yes.

Q. And at that time -- you say she had a previously established diagnosis. Did you actually see a medical record, or was this a verbal relaying of the diagnosis of RSD to you?

A. At the first visit, I think that was a verbal relaying.

Q. Okay. Now, with regard to the knee, you indicated that you thought, initially, she had a torn meniscus?

A. Correct.

Q. Why was that?

A. She was tender over the medial joint line,

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and she did have some --

Q. How long had that been going on?

A. She stated since her initial injury in May 2002.

Q. So you thought perhaps she had a torn meniscus for three years?

A. Possibly.

Q. Is that very common?

A. Yes.

Q. Okay. And what else made you think she had a torn meniscus?

A. She had a -- something called a McMurray's test that was positive that usually indicates a meniscal injury.

Q. Okay. And you said you also thought she might have instability of the proximal tib-fib joint at that time?

A. She did have that. That was a palpable finding with squatting.

Q. Okay. How did Ms. Criswell describe the incident to you of May 23rd, 2002?

A. On that day, she said she was at Christiana Hospital in Newark, Delaware, and she said her left ankle was, quote, "run over by an X-ray machine," unquote. She said she also fell onto the left knee at

the time of injury.

Q. Is that the time that you believe the instability occurred?

A. The instability could have occurred -- started when she sprained her ankle and then been completed when she fell on her knee. It's hard to determine without being there at the time of injury and

watching it happen.

Q. Okay. In relationship to that, to the time of injury, that is correct. If you -- for example, do you think that it's important how fast the portable X-ray machine was going?

MR. LEVIN: Objection.

Q. (By Ms. Massaro) You can answer.

A. No, because they typically run at the same speed.

Q. Okay. So you don't think it's important how fast the X-ray machine was going at the time of impact?

A. It depends upon -- I think more important would be the mass of the X-ray machine rather than the velocity.

Q. Okay. Again, so are you saying, then, it's not important to you, in your determination, how fast the X-ray machine was going at the time of this incident?

MR. LEVIN: Objection.

THE WITNESS: Correct. In terms of determining what's wrong with her, I don't need to know how fast the X-ray machine was going when it hit her.

Q. (By Ms. Massaro) That's not what I asked. I'm asking in terms of her diagnosis after this.

Would your opinion change if you knew, for example, the speed --

A. No.

Q. -- of the portable X-ray machine?

Okay. Let me ask you this: Would your opinion change if you knew that it had not run over her

left foot but tapped the back of the ankle?

MR. LEVIN: Objection.

Q. (By Ms. Massaro) You can answer.

A. I would have to know what amount of force a tap meant in terms of kinetic energy.

Q. So when you're talking force and kinetic energy, does the speed of the machine matter to you at that point?

A. Yes.

MR. LEVIN: Objection.

Q. (By Ms. Massaro) You can answer.

A. Yes. That's one of the determinants of kinetic energy.

Q. Okay. If Ms. Criswell did not fall on her knee -- again, this is a hypothetical. If she did not fall on her knee, would that affect your opinion in terms of relating the knee injury to this incident?

A. No.

Q. And why not?

A. Because a common mechanism for injuring the proximal tibiofibular ligament is a bad ankle sprain that travels up through the ankle, into the proximal connection. Because the leg bones, the tibia and fibula, are connected at the ankle and they're connected at the knee, and they're also connected in between, and, often, with a bad ankle sprain, the tear can exit up through the knee.

Q. So are you saying, then, that the ankle sprain -- are you saying that you believe an ankle sprain occurred when the machine tapped her heel?

MR. LEVIN: Objection.

THE WITNESS: She was diagnosed previously with an ankle sprain.

Q. (By Ms. Massaro) "Previously" when?

A. I think when she saw her physician, initially, after the injury.

Q. Okay. Is that Dr. DiPretoro?

A. Yes.

Q. Okay. Do you want to show me where he diagnosed her with an ankle sprain? And just let me know where you're looking in the record.

A. Well, for us, it's Exhibit A.

Q. I have that.

A. It's the second page, dated May 28, 2002. Under "assessment," he wrote, "Achilles tenosynovitis, peroneus brevis tenosynovitis likely due to ankle sprain."

Q. Now, are you saying, then, that, as a result of this ankle sprain, she experienced instability in the knee?

A. It's not really a result of. It's part of.

Q. Part of. Okay.

Would she have experienced knee pain at this time?

A. She may have not. She may have, but since she wasn't weight-bearing on the leg, she really wouldn't have noticed the instability.

Q. Did she tell you, when she saw you, that she had had pain since the date of the incident?

A. In her ankle, yes.

Q. Did she tell you that she had had pain in her knee since the date of the incident?

A. I think the main complaint with her knee was

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instability, and pain only when doing certain activities. The knee pain didn't bother her at rest or with just walking regular -- just regular ambulation.

Q. Okay. But my question was: Did she tell you that she had left knee pain since May of 2002?

A. I would have to look at my note again briefly.

She didn't tell me that she specifically had the pain since -- at the time of that injury in the knee.

Q. Okay. Could you look at your note from May 11th, 2005.

A. Yes.

Q. Okay. Do you see where it says, "Left knee pain since May 23rd, 2002"?

A. Yes.

Q. So at some point, did she then tell you that she had the knee pain since the incident?

A. She did. She must have told me at the second visit.

Q. Okay. Did you see in her -- in any of her records that you reviewed, did you see any complaints of knee pain?

A. No.

Q. Okay. So you're the first person that she

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complained to of knee pain and had an actual diagnostic study of her left knee after this incident?

A. Correct.

Q. Okay. So it wasn't until three years after the incident that she actually had an MRI done on the left knee or an X-ray even done of the left knee; is that right?

A. Correct.

Q. I want to go back through your records in a minute, but I want to go backwards a little bit.

In terms of your time -- this is just a general question -- how much time do you spend in your practice in clinical versus administrative versus surgical?

A. Administrative, 5 percent, and the remainder between surgery and clinic, I would have to say about 60 percent clinic, 40 percent surgery. So divide up the 95 percent, and it's a 60/40 split with the majority of time being clinic.

Q. Got it.

How many of your patients -- or, let's say, what percentage of your patients do you see with a diagnosis of RSD?

A. I would have to say five or less.

Q. And how long have you been in practice?

A. Three years.

Q. What type of surgeries do you typically perform?

A. Knee, shoulder, trauma, joint replacement.

Q. Okay. Do you have a specialty?

A. Sports.

MR. LEVIN: Doctor, if you could speak up just a little.

THE WITNESS: Sure. Sports orthopedics.

Q. (By Ms. Massaro) Okay. Thanks.

When you perform surgeries, do you ever do an intraoperative X-ray?

A. Yes.

Q. Okay. When you page the X-ray technician because the patient is under anesthesia and you need an X-ray done, do you expect the X-ray technician to get there quickly?

MR. LEVIN: Objection.

Q. (By Ms. Massaro) You can answer.

A. No, not always.

Q. Okay. And why wouldn't you expect the X-ray technician to get there quickly when you have a patient under anesthesia and you've paged them to come?

MR. LEVIN: Objection. What is the relevance of this?

MS. MASSARO: It's very relevant. I'm just asking him what his surgical -- I'm not here to argue with you.

Q. (By Ms. Massaro) You can answer the question.

A. Well, I work in a busy trauma center, so there's, sometimes, ongoing trauma and they're unable to get there immediately.

Q. Okay. When you page someone when you're in the OR and you need them to come and take an X-ray --

an X-ray technician to take an X-ray -- is the expectation that they will get there quickly?

MR. LEVIN: Objection.

THE WITNESS: Not always. It just depends on time of day and where it is and . . .

Q. (By Ms. Massaro) And what do you mean "where it is"?

A. We often wait 20, 30 minutes for an X-ray tech.

Q. And why would you often -- why do you wait 20, 30 minutes for an X-ray tech?

MR. LEVIN: Objection.

THE WITNESS: Because they might have concurrent traumas where they're taking X-rays.

Q. (By Ms. Massaro) How often do you request

intraoperative X-rays?

MR. LEVIN: Objection.

THE WITNESS: We request them for trauma patients where we -- anytime we need to see the bone.

Q. (By Ms. Massaro) Okay. Would you say that that's a stat order?

MR. LEVIN: Objection.

Q. (By Ms. Massaro) You can answer.

A. Sure.

Q. Of those 5 percent of patients that you have with RSD, how do you treat those patients?

A. I usually refer them to someone else.

Q. And what type of physician do you usually refer them to?

A. A hand surgeon who's familiar with RSD, or a

neurologist, or a pain-management specialist.

Q. Did you refer Ms. Criswell to one of those doctors?

A. No.

Q. Why not?

A. She had already had a treatment regimen for her RSD that seemed to be controlling her symptoms.

Q. Okay. So her treatment regimen is controlling her symptoms?

MR. LEVIN: Objection.

THE WITNESS: Was controlling her symptoms as best they could with -- I think they tried various things, and that was as good as it gets for her.

Q. (By Ms. Massaro) Okay. And what --

A. She was at a baseline at that point.

Q. And what is her treatment regimen?

A. She was receiving nortriptyline and Mobic.

Q. Is she still on nortriptyline and Mobic?

A. I think she's still on nortriptyline. She might have switched to a different nonsteroidal, anti-inflammatory medication.

Q. So the Mobic might be out and something else in?

A. Yeah, a different anti-inflammatory.

Q. Okay. Anything different for the RSD?

A. I think we were continuing with her physical therapy intermittently.

Q. Okay. So when you say, "intermittently," how often -- let me ask you this. Let me rephrase that question. Do you prescribe her physical therapy for

her now?
A. Yes.
Q. How often do you do that?
A. Typically, whenever she comes into the office or her therapy sends a note, I review the note and

determine how she's doing and whether she would benefit from additional therapy or not.
Q. Okay. And do you have her on physical therapy, for example, now?
A. I'd have to look at my most recent note. She was on physical therapy as last I saw her on January 29th, 2007.
Q. Okay. Is she still to this day?
A. I'm not sure if she's actually doing it right now. She may have completed a month or two from January 29th, which would take her to February 28th. So she may have finished it two weeks ago or three weeks ago.
Q. Have you seen her since January 29th?
A. No, I have not.
Q. And how often -- when you prescribe physical therapy, how often do you prescribe it for? For example, once a week or --
A. When she does therapy, it's typically two to three times a week depending on her schedule, the therapist's schedule.
Q. Okay. Getting back to your records, it looks like you -- after you saw her, you requested an MRI of the left knee without contrast; is that correct?
A. Correct.

Q. And do you have a copy of that in front of you? In my exhibit, it's the third page back if you want to look at mine. Or you probably have it in your record.

Under "findings," does it say there's no previous study for comparison? Is that correct?

A. Correct.

Q. So this, again, was the first diagnostic of her left knee; is that correct?

A. Correct.

Q. Okay. Did you yourself actually look at the MRI films?

A. I think I did, but it was quite a long time ago, and I don't actually remember if I did or did not.

Q. Okay. So if I ask you did you actually see the effusion on the MRI, would you be able to answer me that question?

A. No. I can't recall.

Q. Okay. So you don't know whether you actually saw that effusion or not?

A. No.

Q. Are they hard to visualize on an MRI?

A. No.

Q. Okay. Have you seen effusions on MRIs in the past, yourself, say, for other patients that you

recall?

A. Yes.

Q. Okay. And how does an effusion occur?

A. An effusion usually -- what an effusion means

is that there's fluid -- extra fluid somewhere.

Q. Okay. And what do you call that fluid?

A. Extra fluid in the body usually occurs as it's filtered through the bloodstream. The capillaries dilate and the water that's typically in the blood comes out filtered through the capillaries and enters the tissues.

Q. Does trauma cause that?

A. Trauma can cause it, or chronic inflammation.

Q. Okay. And in this instance, what did you suspect that tiny effusion to mean?

A. Since this is a place that you almost never see an effusion -- I've never seen an effusion there -- I thought it was consistent with her finding of the instability on physical examination.

Q. Okay. I notice, later, on September 26 of '05, it refers to some X-rays of the left knee. Do you have those reports in the file that's being faxed to me, the reports of the X-rays?

A. Those X-rays, we did in our facility, and I just read them. And the reading is on -- the knee

X-ray?

Q. Yes.

A. That's -- the interpretation is in my clinic note on May 2nd, 2005, at the bottom of the --

Q. Okay. So there is no actual report, then?

A. No, because I read it.

Q. I see. Okay.

A. These are for our clinic.

Q. Is that for the MRI, as well?

A. No. The MRI is read by an accredited radiologist at their --

Q. Sure. I'm sorry. Let me rephrase.

Is the MRI also at Maricopa as well as the X-rays? Are the films all at the same place?

A. No. The MRI was done at a separate facility not related to me or the clinic or the hospital.

Q. Got it.

Now, sorry to make you flip back, but back to that date that I was at, September 26 of 2005, at the last part, the prognosis part, it says, "Possible tibiofibular subluxation with IT band friction syndrome. Doesn't want further intervention at that time" -- "at present."

A. Correct.

Q. Well, first of all, what were you

recommending at that time as far as treatment?

A. I was recommending that she had the option of trying a second injection. I can't remember if I had already given her the injection or not. But I gave her an injection there. It didn't really help too much. She didn't want another one.

The other option was, I was going to send her for a second opinion as to methods of reconstructing the ligaments in between her tibia and fibula. And it was kind of a complicated surgery. It's very rare, so the success rate is kind of unknown. And she really wasn't interested in pursuing that at that time.

Q. Did you recommend that surgery?

A. I just gave her the risks, the benefits, and

provided it as an option to her in the future if it became too much of a problem depending on her activities.

Q. Would you recommend that surgery to her?

A. It would only -- it would depend on her activity level. At that time, her ankle was causing -- limiting her activity more than the knee, and she felt that doing something with the knee wouldn't really help because she couldn't walk on her ankle anyway.

Q. Okay.

A. She couldn't do what she wanted in terms of

sports and things anyway.

Q. Back to my question. Would you or do you recommend that surgery for her? Let me ask you that today. Do you recommend that surgery for her?

A. With her current activity level, no. But in the future, she may need it.

Q. And what would cause her to need it in the future?

A. If she became more active.

Q. And how do you mean "more active"?

A. Skiing, going to the gym.

Q. Do you think that's a possibility for her?

A. I don't think so.

Q. Does she go to the gym today?

A. I'm not sure.

Q. Well, if you'll look in your notes on -- how about the next note, March 15th of '06? Does it refer to her using an elliptical machine at the gym?

A. Yes. She's doing the elliptical.

Q. So she does go to the gym today; is that correct?

A. Yes. But she was only doing -- I think she was concentrating on upper-body weight training, and the only thing she could do at the gym was the elliptical.

Q. Okay. Skipping up a few more pages at least in my records -- I don't know what you're looking at, but I'm looking at a work/school-release form that says that she can work up to 30 hours per week -- approximately 30 hours per week as tolerated.

A. Yes. I see it.

Q. It's dated May 16. Is there -- actually, it's dated May 10th of '06, and then it says, "May return to light duty on May 16th." So that's where I'm getting that date.

When did that order expire? There's no expiration date on that order.

A. I think that's pretty much all she could do, and unless she notified me otherwise, we weren't going to change that.

Q. Okay. So is that still in effect today, then?

A. She's at, I think, eight hours per day, three days a week, so she's actually at 24.

Q. Has this order changed any though?

A. No.

Q. The next date is September 28th of 2006, and under the history, the first sentence discusses a recent injury that happened on September 25th of '06.

Do you see that?

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A. Yes.

Q. Okay. And how did she describe that injury to you?

A. She said she was at Valley Radiology working as a radiology technician. She stepped backward onto someone's foot and rolled her ankle in.

Q. Okay. And -- sounds familiar. What were her symptoms after that?

A. She developed a limp, and she had some swelling, actually, in the outside part of the ankle, and she had some tenderness, a small amount of fluid in the joint, and some weakness of the ankle. X-rays were negative.

Q. Okay. And you recommended that she continue to work her eight hours per day three days per week; is that correct?

A. Yes.

Q. I just have a quick question about the next note, which was October 19th of '06. It looks like there was no dictation done. At least that's what I thought. And then I received a dictation yesterday, I think.

When was this dictation done?

A. October 19th.

Q. Is there any reason why initially it came out

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as no dictation?

A. Probably it wasn't in the right drive or it

wasn't printed out into the system.

Q. Okay. And now I'm looking at January 29th, which, as I understand it, is the last time that you've seen her; is that correct?

A. Yes.

Q. Okay. Again, am I correct in saying that she has returned to the gym?

A. Yes.

Q. And you mentioned something about a popping in the left knee?

A. Yeah. Those were the same symptoms she was having related to that tibiofibular instability, and she still didn't want anything done for it.

Q. Okay. That's the first time I read about the popping. Are you saying that there was popping but it just wasn't mentioned in the note?

A. Yeah, there was popping. We just didn't -- I neglected to put it into the note.

Q. So the popping was since day one, since May 2nd of '05, when you saw her?

A. Probably not, because to get the popping, she would have to weight-bear on the ankle. Otherwise, if she was just using crutches and not putting weight on

her ankle after the first injury, she probably wouldn't have noticed any popping.

Q. I'm sorry. I'm asking from the first time after she saw you on May 2nd of '05.

A. Yes. That's the same popping.

Q. Okay. But what I'm saying is, there's no note of popping in your note. And are you saying,

then, that, when she saw you, she did have a popping?

A. Yes, she did. I probably did not put it in there.

Q. Actually, there is a note. There is a note. I'm wrong. "Unable to kneel, deep squatting, and causes left knee pain and popping." It is there.

And that popping is related to the instability; correct?

A. Between the two bones at her knee.

Q. Yeah, the tib-fib. Okay.

Now, I notice on this one you recommended discontinuing the Celebrex. Why is that?

A. I think she probably told me that it wasn't working that well, and she elected to proceed with the Tramadol and nortriptyline.

Q. And with regard to the three eight-hour days, is this what she has expressed to you that she can tolerate?

A. Yes.

Q. Is that why you recommended the three eight-hour days?

A. Yes.

MR. LEVIN: What were you referring to?

MS. MASSARO: I'm referring to the last sentence.

MR. LEVIN: January 29th, '07.

Q. (By Ms. Massaro) Okay. Now, I'd like to -- I believe the next thing I'd like to do is go over your reports. Let's do that. Let's take a look at your reports. We'll start with your first report,

January 19th, 2007 -- dated January 19th. Do you have that in front of you?

A. Yes.

You also have a copy in your exhibits?

Q. Yes, I do. It's Exhibit No. -- if it's helpful to you, it's Exhibit No. 3.

Okay. I'm on the first page. The first thing I want to ask you about is, you said, "She was, according to history and provided documentation, injured at Christiana Hospital," and then it goes on.

What documents were you provided?

A. It's the medical summary with Exhibits A through M.

Q. Okay. What medical summary is that?

A. Just the various medical records from Advanced Foot and Ankle Center, Pro Physical Therapy, Vascular Consultants, et cetera.

Q. Okay. And that's what you looked at to form the basis of your opinion; is that correct?

A. That and my notes.

Q. And when you say, "history," is that the history that she expressed to you in the way she described the incident occurring?

A. Part of it is that and part of it is the other doctors' account of that.

Q. Which, again, likely was from her explaining the way it happened to the doctors?

A. Yes.

Q. Now, with regard to Dr. DiPretoro, he diagnosed her with Achilles tenosynovitis, which is

what you've just said, peroneus brevis tenosynovitis "likely due to ankle sprain, left ankle." This is from the MRI.

Where do you form the opinion that she had an Achilles rupture?

A. According to Dr. DiPretoro's note after he ordered the MRI.

Q. Okay. And what date is that?

A. That, I think, was his second visit with her. It's under our Exhibit A, the June 4th . . .

Q. Okay.

A. Under "assessment," at the bottom, above "plan."

Q. Got it.

I'm going to ask you, then --

MR. LEVIN: Which exhibit is it under for us?

MS. MASSARO: I think it's 11, but for some reason, my 11 isn't here.

Hold on one second. We're just having exhibit issues here.

MR. LEVIN: Off the record.

MS. MASSARO: Off the record for a minute.

(Pause in proceedings.)

Q. (By Ms. Massaro) I just want the record to reflect that we did receive a 58-page document of the medical record of Dr. Dewanjee. Prior to this, I had about a 10-, 15-page document, so I haven't had the opportunity to review everything in this 58-page document. But I will review it. If I have any further questions, I'll let you know.

I do have the handwritten note, and we'll go over that in a minute. Let's go ahead and continue with your report where we were.

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You mentioned that she was treated with serial casting?

A. Correct.

Q. And that she was diagnosed with reflex sympathetic dystrophy of the left lower extremity; correct?

A. Correct.

Q. Can I ask you to take a look at my exhibits, Exhibit No. 8? Are you there?

A. Yes.

Q. Okay. Is that the discharge summary from Christiana Care dated August 15th, 2002?

A. Yes.

Q. Okay. And what is the primary diagnosis upon discharge?

A. Peroneal nerve neuropathy and possible reflex sympathetic dystrophy secondary to left foot injury.

Q. So when she was discharged, it was possible reflex sympathetic dystrophy; is that correct?

A. Correct.

Q. Now, next, you mention that she saw Dr. Grabow at Johns Hopkins and that he indicated she had classic signs of Class 1 complex regional pain syndrome. What does that mean, "Class 1"?

A. I don't know what that means, actually. I

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was trying to find that out myself. I think there's

different classes, and some of it depends on the temporal sequence. There's three phases -- that's the way I usually do it -- early, middle, late. Other people use different numbers.

Q. So you don't really know what that Class 1 is actually associated with?

A. No.

Q. Okay. Then never mind. I'm not going to go there.

A. Basically, complex regional pain syndrome is almost a synonym for RSD. All causalgia means is it's RSD with a defined nerve injury. And I think this complex regional pain syndrome encompasses both RSD and causalgia. So it's kind of like semantics of the terminology and all that. But it's all basically RSD, same stuff.

Q. Sure. Okay. I just wanted to know what the Class 1 -- if you had an idea of what that meant.

Now, I'm looking at the last page of your report, I have a few questions about that. Then we'll go to your supplemental report.

On the last page of your report, you indicate that, on March 15th, she had a new complaint of left foot pain.

Now, is that an unrelated left foot pain?

A. I think that's unrelated.

Q. Okay. And you say, "More recently, she stepped off of a curb and reaggravated her left ankle." Is that --

A. That's pertaining to that -- the last couple

notes.

Q. Where she had an injury at work?

A. Yeah, September 25th at Valley Radiology. That's what that's pertaining to.

Q. So when you say she stepped off of a curb, is that just -- is that incorrect? Because, actually, she was -- she alleges she stepped into a person in your notes. So I guess I'm asking which is correct.

A. I'm not sure. She would probably know. I just took that from whatever she told me.

I think she may have twisted it twice. I can't actually recall, but . . .

Q. Okay.

A. I think she may have -- so three times total in our, I guess, long scenario, but two times within maybe the last year. But I'm not a hundred-percent sure on that. She would probably be able to tell you exactly when she did that.

Q. Would that have been reflected in your notes?

A. It should have been.

Q. Okay. And you say, "Currently, the patient is weight-bearing as tolerated, and RSD symptoms controlled with PT and medication."

Is that still true?

A. Yes.

Q. And then you say, "In the future, she may benefit from operative treatment of her left knee, proximal tibiofibular subluxation, or operative treatment of her Achilles tendinitis with synovectomy."

Would you -- does she need these surgeries,

in your opinion, to a reasonable degree of medical probability?

A. The need is completely dependent on her symptoms and whether -- it's not a surgery that's a hundred-percent guaranteed, so there's risks associated with it, and it's up to her whether she believes the risks are worth having the surgery.

Q. Would you operate on her with RSD?

A. I'm not -- I would most likely send her to a foot and ankle subspecialist to have surgery, and, on her knee, I would probably get a second opinion from another sports surgeon with more experience than myself who's maybe done that surgery before doing anything with her knee. Because that's a very rare surgery.

Most orthopedic surgeons have probably never even attempted that reconstruction or even know anything about it.

Q. Okay. And would you recommend that surgery?

A. If she progressed her activities and it was continuing to bother her, I would recommend it. But at this point, I think her ankle is the main problem that's limiting her activity. If her ankle --

Q. Is that because she had the accident at the hospital where she -- this recent accident where she stepped into somebody?

A. Well, I think it was the initial accident that resulted in the RSD and the possible partial Achilles tear.

Q. Okay. But did the second accident aggravate that?

A. The second accident aggravated her RSD.
Q. Did you know that she had had left foot surgery in the past?
A. Yes. I think she had an os resected or something, which is an accessory bone that a lot of people have.
Q. Then you say, I believe, that her Achilles and knee injuries are directly related to her initial injury at Christiana Hospital because she denies any

prior injury to her left lower extremity, and findings are consistent with mechanism of injury.
Did you review anything other than the records that were provided to you?
A. No.
Q. And when you say, "findings are consistent with the mechanism of injury," what do you mean by that?
A. Meaning, for example, if you twist your ankle, you can get a sprain, but if you twist your ankle and you say your shoulder hurts, that's not consistent. Or if something hits you in the foot and you have a laceration over your ankle, that's consistent, where if somebody hits your foot and you say you got the laceration in your arm because of that, that's not consistent.
Q. So you're saying that because her ankle was tapped --
MR. LEVIN: Objection.
Q. (By Ms. Massaro) -- by a portable X-ray machine, that that's consistent with the injuries that

she has?

A. Well, I'm not saying anything about tapping because I don't know exactly what happened to her, but I'm saying that her injuries that she received at work

initially, way back in 2002, are consistent with later findings and current diagnoses.

Q. And is that based on the fact that because it was --

A. The main thing.

Q. -- the alleged impact on the area where -- of her ankle; is that correct?

A. Correct, and the lack of prior problems in that area.

Q. Now, this report, you're saying her Achilles and knee injuries are related. Is there anything else that you believe are related to the incident?

A. She had previous related injuries that have healed since they occurred. She had a laceration. That healed correctly. She had stress factors, which healed.

Q. Okay. And the stress fracture, what stress fracture are you talking about there, the stress fracture that healed. Let me ask you specifically. Are you talking about the one in November of '02?

A. Yeah, I think so. It's the metatarsal fractures.

Q. Are you saying that that was -- why are you saying that that is related to the incident at the hospital?

A. Because once you remain nonweight-bearing on a bone for such a long period of time, the bone calcium generally leaves the bone. And on top of that, RSD is associated with osteopenia, meaning the calcium leaches out of the bone. So she had two reasons to have weak bone. One was the RSD. The second was the immobilization, which was appropriate for her care, and the RSD and nonweight-bearing period.

Q. And are you saying that the osteopenia is related to the RSD?

A. Yes. That's one of the cardinal findings of RSD.

Q. And how long does that take to develop when you have the osteopenia related to the RSD?

A. I'm not sure, but I'd say within six months.

Q. Okay. Can I ask you to take a look at my Exhibit 8?

A. Sure.

Q. The second page. We looked at it a moment ago, but now the second page.

A. Sure.

Q. You'll notice that it's a progress record from Christiana Care.

A. Yes.

Q. What is the date on that?

A. August 14th, 2002.

Q. Okay. Could you look at -- could you read, as best as you can, No. 3 and No. 4 for the record?

A. "Lack of sympathetic block giving improvement

makes RSD less likely."

Q. And No. 4, as well?

A. "As per patient, ortho has" -- I'm not sure what the next word is -- "that old X-rays of metatarsal fracture show osteopenia, not osteoporosis."

Q. So would you agree, then, that, as of August of '02, old X-rays showed osteopenia at least according to the records that you reviewed?

A. Sure.

Q. Okay. Let's take a look at your supplemental report. And, again, could you explain what prompted this report?

A. Mr. Levin reviewed my initial report, and he felt he wanted some things addressed that I neglected to put in there, which were specifically -- I didn't mention anything about how much work she was able to do, and there was one other thing. Yeah, I think that was mainly it. And he just wanted me to discuss the RSD more and what was the RSD a result of, what did he think -- or what did I think caused the RSD.

Q. And when did that phone call take place?

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A. Sometime before March 23rd or 26th.

Q. Okay. Was it a week before March 23rd --

A. Honestly, I can't say. I've been on the phone so much with everybody that -- not him, but just a lot of time on the phone. But it was after that, Friday, January 19th.

Q. Okay. That's a big stretch. That's several months. So you're saying -- like that's the rest of January, all of February, and almost all of March.